

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Inquiry Concerning the Deployment of)	GN Docket No. 11-121
Advanced Telecommunications Capability to)	
All Americans in a Reasonable and Timely)	
Fashion, and Possible Steps to Accelerate Such)	
Deployment Pursuant to Section 706 of the)	
Telecommunications Act of 1996, as Amended)	
by the Broadband Data Improvement Act)	

**REPLY COMMENTS OF THE SOUTHEAST ASSOCIATION OF
TELECOMMUNICATIONS OFFICERS AND ADVISORS IN RESPONSE TO THE
EIGHTH BROADBAND PROGRESS NOTICE OF INQUIRY**

I. INTRODUCTION

The SouthEast Association of Telecommunications Officers and Advisors (“SEATOA”), a chapter of NATOA, submits these Reply comments to put a fine point on its earlier September 9, 2011 comments filed in this proceeding (“SEATOA Comments”). Specifically, these Reply comments again request that the Commission modernize the labels associated with the Form 477 broadband tiers so they comport with, and provide an unambiguous minimum threshold for, what is called “broadband.” Without this change, old FCC definitions linger and states, like North Carolina, are using them to fund the deployment of broadband service at speed levels far below those the FCC itself has concluded are necessary to engage in contemporary life.

**II THE FCC NEEDS TO SYNC UP ITS FORM 477 CATEGORIES WITH ITS OWN
DEFINITION OF BROADBAND**

SEATOA believes it is time for the FCC to sync up its Form 477 with the broadband levels established as minimum thresholds and national targets in the Commission’s own National Broadband Plan. This will create a clear, unambiguous definition of broadband for use around the country and as a means by which the Commission can track our country’s progress toward those goals.

Since its Sixth Report, the Commission has adopted its National Broadband Plan's ("NBP") broadband availability targets of 4Mbps/1Mbps of actual broadband speed as the minimum Internet speed level necessary to participate in contemporary life. It justly used these speeds as the "minimum broadband threshold" for purposes of establishing whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. Yet, its own Form 477 does not collect subscribership data at those levels.¹

The FCC's NBP has also established the goal of 100 million U.S. homes having 50Mbps/20Mbps actual download and uploads speeds by 2015, and 100 million U.S. homes having 100Mbps/20 Mbps actual download/upload speeds by 2020, and yet again these exact data rates are not collected on the Form 477.

SEATOA's Comments have already pointed out how the Commission's failure to modernize one particular broadband service label ("FCC Basic Broadband Tier 1) (or to establish consistency between the Form 477 and the standards used in its NBP) has been manipulated in North Carolina state law to deny communities the ability to provide broadband above 768Kbps² (until the FCC raises that bar).³

¹ NOI n. 25; Seventh Broadband Progress Report at ¶25 and its Appendix F: Technical Appendix ¶16. (In assessing compliance with its own new standard, the FCC had no choice but to use Form 477 data showing speeds of at least 3 Mbps/768K as a proxy for 4Mbps/1Mbps.

² Specifically, in its 2008 Broadband Data Gathering Order, the FCC reclassified its Form 477 speed thresholds into 8 categories, removed from its classification as "broadband" speeds slower than 768Kbps, and casually inserted through a footnote labels associated with each tier (200 Kbps was classified as "1st Generation Data" and 768Kbps to 1.5Mbps was classified as "Basic Broadband Tier 1, etc."). *See Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans; Improvement of Wireless Broadband Subscribership Data; Development of Data on Interconnected Voice over Internet Protocol*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691, 9700–01, para. 20 n.66 (2008) (*2008 Broadband Data Gathering Order*): "We will use the terms "first generation data" to refer to those services with information transfer rates greater than 200 kbps but less than 768 kbps in the faster direction, and "basic broadband tier 1" to refer to services equal to or greater than 768 kbps but less than 1.5 mbps in the faster direction. Subsequent tiers will be labeled "broadband tier 2" through "broadband tier 7. These terms are evolving definitions that should change over time based on advances in technology and growth in demand for broadband service."

³ That law specifies as an acceptable minimum offer broadband service, any census block where 50% or more of the households have access to Internet services at speeds "that are equal to or greater than the requirements of basic broadband tier 1 service as defined by the Federal

Now North Carolina's Department of Commerce has issued an RFP for \$1 million in matching grants for private companies to provide high speed internet access at transmission speeds that are "consistent with the requirements for high-speed broadband internet as defined by the FCC." Once again, that RFP referenced the FCC's 2008 order, specifying the minimum level of 768Kbps as broadband (see attached).⁴ One million dollars of North Carolina taxpayer money will now be allocated to the deployment of broadband at speeds not even the FCC sees as the minimum necessary to engage in contemporary life.⁵

SEATOA recommends that, at a minimum, the Commission use its own minimum broadband speed threshold of 4Mbps/1Mbps of actual broadband speed as its equivalent of "Basic Broadband Tier 1" service.⁶ Any speeds slower than that should be gradations of "1st generation data." and any speed slower than an actual speed of 768 Kbps should no longer be measured.

III. CONCLUSION

SEATOA thanks the Commission for recognizing the need for significant improvement in its broadband data collection methodologies and broadband definitions. In an era when broadband has become essential for our country to unleash innovation, develop jobs, economic growth, global competitiveness and democratic engagement, both the SBDD data and the Commission's Form 477 processes need to be significantly reformed to ensure that policymakers (and broadband providers) down to the state and local levels, have unambiguous standards and accurate measurements for what and where broadband exists in our country.

Communications Commission for broadband data gathering and reporting." Under current FCC practices, that speed would apparently be a minimum of 768Kbps of advertised speed for downstream service. See S.L. 2011-83, NC House Bill 129: An Act to Protect Jobs and Investment by Regulating Local Government Competitive with Private Business, May 21, 2011 ("Level Playing Field law"). Found at <http://www.ncga.state.nc.us/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H129>.

⁴ And at: <https://www.ips.state.nc.us/ips/AGENCY/PDF/08538900.pdf>

⁵ Even after referring to the FCC's standard of 768Kbps, the NC Department of Commerce concluded that applicants must provide a minimum speed of 1.5Mbps, still far under the FCC's standard of the level need to participate in modern life.

⁶Although SEATOA agrees with NATOA that the FCC's 4Mbps/1Mbps threshold now also needs modernizing to 10 Mbps symmetrical.

Respectfully submitted by,

A handwritten signature in blue ink that reads "Catharine Rice". The signature is fluid and cursive, with a long horizontal stroke at the end.

Catharine Rice
President
SEATOA
P.O. Box 1176
Pineville, North Carolina 28134-1176
(704) 541-5787
Seatoa@carolina.rr.com

October 6, 2011

The NC Department of Commerce
Request for Applications
Broadband Connectivity Supply Side Incentive Grant Program

Request for Applications No: 43-BroadbandIncnt

Solicitation Period: September 30, 2011 – October 31, 2011

Last Date for Questions: October 15, 2011 at 5:00 pm

Application Closing Date/Time: October 31, 2011, 5:00pm EST

Administered by:

North Carolina Department of Commerce

Commerce Finance Section

301 North Wilmington Street

4318 Mail Service Center

Raleigh, North Carolina 27699-4318

(919) 715-6559

(At page 5)

6.0 Technical Requirements

Technologies

The North Carolina Department of Commerce is seeking proposals that provide Last and or Middle Mile solutions to serve rural North Carolina residential and business subscribers in an Eligible Service Area. Technologies could include, but are not limited to, wire line services such as xDSL or cable modem or wireless services such as 802.11 and MMDS.

Definition of High-Speed

The General Assembly defined high-speed broadband Internet access in N.C. General Statute 143B-437.45, as "Internet access with transmission speeds that are consistent with requirements for high-speed broadband Internet access as defined by the Federal Communications Commission (FCC) from time to time."

In March of 2008, an FCC order updated the speed tiers to define *broadband* services. This order requires service providers to report their upload and download speeds in a new tier system. The system outlines seven tiers of service – from the basic tier starting at 768 kbps, to tier seven with greater than 100 Mbps.

FCC's New Speed Tiers	
1 st Generation Data	200 to 768 kbps
Basic Broadband Tier 1	768 kbps to 1.5 Mbps
Broadband Tier 2	1.5 to 3 Mbps
Broadband Tier 3	3 to 6 Mbps
Broadband Tier 4	6 to 10 Mbps
Broadband Tier 5	10 to 25 Mbps
Broadband Tier 6	25 to 100 Mbps
Broadband Tier 7	Greater than 100 Mbps

Source: FCC Wireless Competition Bureau

All proposals submitted in response to this Request for Proposals must, at a minimum, provide 1.5 Mbps to the home or business. This speed is viewed as a baseline and higher speeds are very much encouraged.

7.0 Grant Award Schedule

September 30, 2011	Request for Proposals Released
October 15, 2011	Last day for Written Questions from Applicants
October 31, 2011	Grant Proposals Due
December 1, 2011	Projected Date for Grant Awards